

REMARKS/ARGUMENTS

Claims 1-3, 5, 7-13, 19 and 29-39 remain in the application. Claims 4, 6, 14-18 and 20-28 have been canceled.

The allowance of claims 29 and 31-39 is noted with appreciation.

This still leaves claims 1-3, 5, 7-13, 19 and 30 for further consideration.

Claims 1 and 2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Palitto (U.S. Patent 2,593,914). However, Palitto discloses a rhombus 7 having four sides S-1, S-2, S-3 and S-4, with the sides S-1 and S-2 and the sides S-3 and S-4 related at angles of 135° and the sides S-1 and S-4 and the sides S-2 and S-3 related at angles of 45° , not a combination layout tool comprising a triangular shaped member having three side edges that intersect at opposite ends to form two $67\frac{1}{2}^\circ$ angle corners and one 45° angle corner as recited in claims 1 and 2.

Moreover, there is absolutely no suggestion or motivation for breaking the combination layout tool of Palitto along the bisecting line 9, forming two triangles, each with two 67.5° angle corners and a 45° angle corner as suggested by the Examiner. The only teaching in Palitto for using the disclosed device to draw lines at the various angles mentioned in column 3, lines 10-19 including an angle of $67\frac{1}{2}^\circ$ is to line up an already drawn line with the bisecting line 9 and then draw along one of the sides S-1 - S-4 to provide a line related at $67\frac{1}{2}^\circ$. This is entirely different than providing a triangular shaped combination layout tool with two $67\frac{1}{2}^\circ$ angle corners and one 45° angle corner as claimed. Thus it is respectfully submitted that the Examiner has modified Palitto in light of applicant's present teachings and certainly not from any teachings or suggestions disclosed in Palitto, which is clearly improper. This is

hindsight reconstruction and does not establish obviousness under 35 U.S.C. § 103.

Accordingly, claims 1 and 2 are submitted as clearly allowable.

Claims 3, 5, 7-13 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright (U.S. Patent 5,170,568) in view of Muench (U.S. Patent 1,699,619). The Examiner acknowledges that Wright does not disclose a combination layout tool wherein the incremental angle lines 13 are incremental angle slots which terminate in spaced relation from the side edge opposite the one corner, but contends that it would have been obvious to replace the incremental angle lines of Wright with incremental angle slots, as taught by Muench, so that the angles could be more precisely drawn using the slot as a mark, so that the side edge of the combination tool would remain a straight edge by having the slots spaced from the side edge. However, once again it is respectfully submitted that the Examiner has improperly combined these references in light of applicant's teachings and certainly not from any teachings or suggestions found in the cited references. Moreover, the elongated slots of Muench do not have straight sides uniformly spaced apart throughout their length as now recited in claim 3. Accordingly, even if it were proper to combine the teachings of Wright and Muench in the manner suggested by the Examiner, which applicant's attorney does not admit, claim 3 and claims 5 and 7-13 dependent thereon still patentably distinguish over these references.

Claim 5 further patentably distinguishes over these references by reciting that one of the incremental angle slots is a 90° angle slot that extends in a direction perpendicular to the one side edge in alignment with the notch. It is not seen wherein any such slot is disclosed in Wright.

Claim 10 further patentably distinguishes over these references by reciting a triangular shaped slot in the member in close proximity to the notch having an acute angle corner facing the notch for latching one end of a string in the acute angle corner that has been pulled over the notch and one of the angle slots and through the triangular shaped slot. The triangular shaped slot 14 of Wright is a right-triangular orifice that has measurement marks 15 for measuring and marking certain standardized distances and for holding and hanging the square (column 3, lines 27-33). Moreover, the 90° angle of the triangular shaped slot 14 of Wright faces the notch 3 (Fig. 3), and thus the slot 14 of Wright does not have an acute angle corner facing the notch for latching one end of a string in the acute angle corner as claimed.

Claim 11 further patentably distinguishes over these references by reciting at least one rafter tail/ridge cut pattern formed in the side edge containing the notch in spaced relation from the notch, the pattern comprising two straight sides intersecting the one side edge and intersecting one another at 90°, with one of the sides being shorter than the other side. The so-called rafter tail/ridge cut pattern of Muench is not formed in a side edge having a notch therein as claimed. Moreover, both sides of the so-called rafter tail/ridge cut pattern of Muench are of the same length, rather than one of the sides being shorter than the other side as claimed.

Claims 12 and 13 also further patentably distinguish over these references by reciting at least two such rafter tail/ridge cut patterns formed in the one side edge in spaced relation from one another and from the notch, each of the patterns comprising two straight sides intersecting the one side edge and intersecting one another at 90°, with one of the sides of each of the patterns being shorter than the other side.

Claim 30 (which is previous claim 15 rewritten in independent form and was indicated to be allowable over the prior art of record in the Office Action of May 28, 2003) patentably distinguishes over these references by reciting *inter alia* at least two rafter tail/ridge cut patterns formed in one side edge containing the notch in spaced relation from one another and from the notch, each of the patterns comprising two straight sides intersecting the one side edge and intersecting one another at a 90° angle, one of the sides of each of the patterns being shorter than the other side, and elongated angle slots in the member that extend in a direction in alignment with the respective short side of each of the patterns. As previously indicated, the so-called rafter tail/ridge cut patterns 7, 8 of Muench are not in the side edge having the notch. Also one of the sides of each of the patterns is not shorter than the other side as claimed. Moreover, the elongated angle slots in Muench do not extend in a direction in alignment with the respective short side of each of the patterns as further recited in claim 30. Accordingly, claim 30 is also submitted as clearly allowable.


Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright and Muench and further in view of Premo (U.S. Patent 2,579,857). Briefly, it is the position of the Examiner that it would have been obvious to one of ordinary skill in the art to modify the combination layout tool of Wright and Muench to add a plurality of spaced holes in a common plane, as taught by Premo, so that a user could use the combination layout tool both as a protractor for measuring angles and as a compass for drawing circles. However, claim 19 depends from claim 3 and is submitted as allowable for substantially the same reasons.

For the foregoing reasons, this application is now believed to be in condition for final allowance of all of the pending claims 1-3, 5, 7-13, 19 and 29-39, and early action to that end is earnestly solicited. Should the Examiner disagree with applicant's attorney in any respect, it is respectfully requested that the Examiner telephone applicant's attorney in an effort to resolve such differences.

In the event that an extension of time is necessary, this should be considered a petition for such an extension. If required, fees are enclosed for the extension of time and/or for the presentation of new and/or amended claims. In the event any additional fees are due in connection with the filing of this amendment, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (Charge No. MCBCP0101USA).

Respectfully submitted,

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